

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Eugene R. Boos,

Civ. File No. 07-4316 (PAM/JSM)

Petitioner,

v.

ORDER

Joan Fabian,

Respondent.

This matter is before the Court on Petitioner's objections to the Report and Recommendation ("R&R") of United States Magistrate Judge Janie S. Mayeron, dated October 26, 2007. In the R&R, Magistrate Judge Mayeron recommended dismissal of Petitioner's request habeas corpus relief. Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.1(c). Based on a review of the record and Petitioner's submissions, the Court concludes that the R&R is correct and the Petition must be dismissed.

The Petition is brought pursuant to 28 U.S.C. § 2254 and raises a challenge to the validity of Petitioner's sentence. As noted in the R&R, Petitioner's conviction and sentence became final in 1995. Petitioner filed his first habeas challenge to his conviction and sentence in state court in 2003. As the Magistrate Judge correctly found, the one-year limitations period on habeas corpus proceedings imposed by 28 U.S.C. § 2244(d) elapsed long before Petitioner's first habeas challenge. Thus, the federal court is barred from hearing all subsequent challenges to Petitioner's conviction and sentence.

Moreover, although Petitioner now contends that extraordinary circumstances exist that justify relief from the one-year limitation period of § 2244(d), the extraordinary circumstance he identifies is that his research has revealed that Minnesota is violating its inmates' rights by incorrectly calculating their sentences. He does not claim that there is new law applicable to this argument, or that the State or some other entity prevented him from previously making this argument. The statute of limitations in § 2244(d) is intended to be a high hurdle, and Petitioner's objections to the application of that statute are unavailing.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioner's application for a writ of habeas corpus (Docket No. 1) is **DENIED**; and
2. This matter is **DISMISSED with prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 21, 2007

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge